

House File 2473 - Introduced

HOUSE FILE 2473
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2275)

A BILL FOR

1 An Act relating to criminal offense definitions, penalties, and
2 the forfeiture of an unsecured appearance bond in a criminal
3 proceeding.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 716.6, subsection 1, Code Supplement
2 2009, is amended to read as follows:

3 1. a. Criminal mischief is criminal mischief in the fourth
4 degree if ~~the~~ any of the following apply:

5 (1) The cost of replacing, repairing, or restoring the
6 property so damaged, defaced, altered, or destroyed exceeds two
7 hundred dollars, but does not exceed five hundred dollars.

8 (2) The person intentionally injures, destroys, disturbs,
9 or removes any marker placed on any tract of land, street,
10 or highway, designating any point, course, or line on the
11 boundary of the tract of land, street, or highway, if the
12 marker was placed at such location by a land surveyor licensed
13 under chapter 542B, or by any person directed by a licensed
14 land surveyor. A governmental entity and employees of such
15 an entity are exempt from prosecution under this subparagraph
16 for projects performed pursuant to section 314.8. A licensed
17 land surveyor and persons under the direction of a licensed
18 land surveyor are also exempt from prosecution under this
19 subparagraph for removing an existing marker in order to place
20 an upgraded or more suitable marker in the same location.

21 (3) The person intentionally injures, destroys, disturbs,
22 or removes any monument that has been established by the
23 national geodetic survey, Iowa geodetic survey, or any county
24 geographic information system for use in the determination of
25 spatial location relative to the specified Iowa state plane
26 coordinate system or precise elevation datum. A governmental
27 entity and employees of such an entity are exempt from
28 prosecution under this subparagraph for projects performed
29 pursuant to section 314.8.

30 b. Criminal mischief in the fourth degree is a serious
31 misdemeanor.

32 Sec. 2. Section 811.9, Code Supplement 2009, is amended to
33 read as follows:

34 **811.9 Forfeiture of appearance bond.**

35 Sections 811.6 through 811.8 shall not apply in a case where

1 a simple misdemeanor is charged upon a uniform citation and
2 complaint and where the defendant has submitted an unsecured
3 appearance bond or has submitted bail in the form of cash,
4 check, credit card as provided in section 805.14, or guaranteed
5 arrest bond certificate as defined in section 321.1. When a
6 defendant fails to appear as required in such cases, the court,
7 or the clerk of the district court, shall enter a judgment of
8 forfeiture of the bond or bail. The judgment shall be final
9 upon entry and shall not be set aside unless a conviction for a
10 scheduled violation under chapter 321 was set aside under the
11 procedures established in section 321.200A, or upon a showing
12 of good cause after the filing of a motion within ninety days
13 of entry of the judgment, for mistake, inadvertence, surprise,
14 excusable neglect, or unavoidable casualty.

15 EXPLANATION

16 This bill expands the definition of criminal mischief in the
17 fourth degree.

18 A person commits criminal mischief in the fourth degree
19 under the bill if the person intentionally injures, destroys,
20 disturbs, or removes any marker placed on any tract of land,
21 street, or highway, designating any point, course, or line on
22 the boundary of the tract of land, street, or highway, and the
23 marker was placed at such location by a licensed land surveyor,
24 or by any person directed by a licensed land surveyor. A
25 governmental entity and employees of such an entity are exempt
26 from prosecution under the bill for projects performed pursuant
27 to Code section 314.8, relating to preservation of government
28 markers in the course of highway construction. A licensed land
29 surveyor and persons under the direction of the surveyor are
30 also exempt from prosecution under the bill for removing an
31 existing marker in order to place an upgraded or more suitable
32 marker in the same location.

33 A person also commits criminal mischief in the fourth
34 degree under the bill if the person intentionally injures,
35 destroys, disturbs, or removes any monument that has been

1 established by the national geodetic survey, Iowa geodetic
2 survey, or any county geographic information system for use in
3 the determination of spatial location relative to the specified
4 Iowa state plane coordinate system or precise elevation datum.
5 A governmental entity and employees of such an entity are
6 exempt from prosecution under the bill for projects performed
7 pursuant to Code section 314.8.

8 A person who commits criminal mischief in the fourth degree
9 commits a serious misdemeanor. A serious misdemeanor is
10 punishable by confinement for no more than one years and a fine
11 of at least \$315 but not more than \$1,875.

12 The bill also allows the forfeiture of an unsecured
13 appearance bond for a simple misdemeanor to be set aside upon
14 a showing of good cause, if a motion is filed within 90 days
15 of the entry of the judgment of forfeiture. The bill limits
16 a good cause showing to mistake, inadvertence, surprise,
17 excusable neglect, or unavoidable casualty.